

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Melissa Converse
2856 Jane Lane
Lincoln, NE 68516

Petitioner,

v.

Roger Breed, Ed.D.
Commissioner of Education
P.O. Box 94933
Lincoln, NE 68509

Respondent.

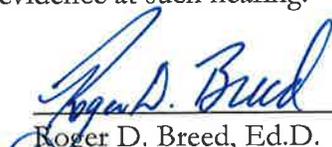
Case No. 13-01

ANSWER

COMES NOW the Respondent, Roger Breed, and for his answer to the Petition of the
Petitioner, admits, denies, and alleges as follows:

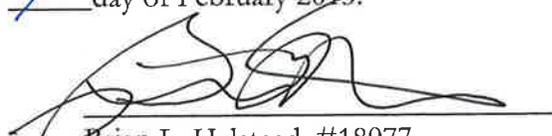
1. Admits paragraphs 1, 2, and 3 in the Petition.
2. Denies paragraphs 4, 5, and 6 in the Petition.
3. Alleges that the Respondent denied the Petitioner's application for a certificate on January 3, 2013.

WHEREFORE, the Respondent requests that the State Board of Education appoint a hearing officer to hold a hearing on this matter, make a recommendation to the Board, and the Board take such action as may be warranted by the evidence at such hearing.


 Roger D. Breed, Ed.D.
 Commissioner of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Answer was mailed to the parties of record through regular United States mail, postage prepaid, this 7th day of February 2013.


 Brian L. Halstead, #18077
 Attorney for Respondent

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 NEBRASKA DEPARTMENT OF EDUCATION

BEFORE THE STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Case No. 13-01

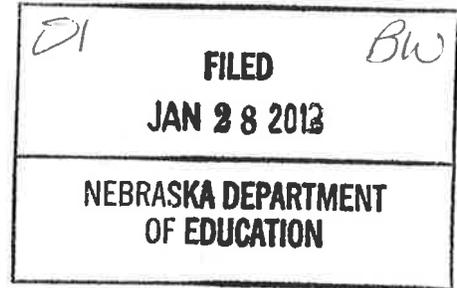
Melissa Converse
2856 Jane Lane
Lincoln, NE 68516

Petitioner,

Roger D. Breed, Ed.D.
Commissioner of Education
P. O. Box 94933
Lincoln, NE 68509-4933,

Respondent.

PETITION



Pursuant to Title 92, Chapter 61, of the *Nebraska Administrative Code*, Petitioner alleges and states the following for a petition and appeal against Respondent, Roger D. Breed, Commissioner of Education ("Commissioner").

1. This Petition constitutes an appeal of the decision of the Commissioner to deny the issuance of a Nebraska certificate to Petitioner.

2. The State Board of Education has authority and jurisdiction to grant the relief requested by Petitioner by reason of Section 009.03 of Title 92, Chapter 21, of the *Nebraska Administrative Code* and by reason of the Nebraska Administrative Procedures Act, Neb. Rev. Stat. §§ 84-901, et seq.

3. Petitioner applied for a Nebraska certificate on or about November 14, 2012. Kevin Peters, Ed.D., Director of the Nebraska Teacher Certification Office, sent a letter to Petitioner stating that the application would be denied unless Petitioner made a written request for review within twenty (20) days. Petitioner made a timely written request for review.

4. The Commissioner issued a letter to Petitioner dated November 27, 2012 denying Petitioner's application for a Nebraska certificate, a copy of which is attached to this Petition as Exhibit "A" and is incorporated by this reference.

5. Petitioner requested a review of this decision by writing the Office of the Commissioner of Education within twenty (20) days. On January 3rd, 2013, Roger Breed, Ed.D., Commissioner of Education, sent a letter to Petitioner stating that the review of decision would be denied unless Petitioner appealed denial of application within twenty (20) days. A copy of which is attached to this Petition as Exhibit "B" and is incorporated by this reference Petitioner made a timely written request for review.

6. Petitioner alleges that the facts and circumstances surrounding application will support the issuance of a Nebraska certificate to Petitioner because: According to Title 92 NAC 21, Sec. 009 04B, applicant's age at time of the conduct will be considered. At time of the arrest, applicant had just turned 23 years old, and is now almost 30. According to Title 92 NAC 21, Sec. 009 04C, recency of the conduct will be considered. Date of the incident occurred April 16, 2006, nearly 7 years ago. Applicant's criminal record remains completely blemish-free since the last incident in April of 2006. According to Title 92 NAC 21, Sec. 009 04D, applicant's positive social contributions since the conduct will be considered. Applicant has worked at Cornhusker Place Detox, Touchstone, and has been elected to numerous committees serving the community. Applicant has contributed to society by working extensively helping individuals struggling with drug and alcohol addictions. Applicant is a part of non-profit volunteer organizations like the Make-A-Wish Foundation, Family Images, Lasting Memories, (F.I.L.M.) Project, Relay for Life, Lincoln Chapter, and a part of Alcoholics Anonymous. Hearing Officer Jim Titus reviewed applicant's case September 27, 2011,

and recommended re-instatement of teaching certificate. Board appealed that decision in which Brian Halstead told applicant to wait another year and apply again if applicant felt she was worthy of certificate. Applicant waited more than a year to apply again.

WHEREFORE, Petitioner respectfully requests a hearing and that the State Board of Education enter an Order directing the Commissioner to issue a Nebraska certificate to Petitioner.

Dated this 28th day of January, 2013.

Melissa Converse
Petitioner

VERIFICATION

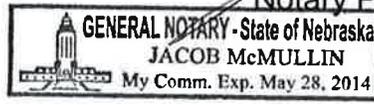
STATE OF NEBRASKA)
) ss.
COUNTY OF Lancaster)

I, Melissa Converse, Petitioner, being first duly sworn under oath, state that I have read the contents of the Petition and that to the best of my knowledge, information, and belief such contents are true.

Melissa Converse
Petitioner

Subscribed and sworn to before me this 28th day of January, 2013, by Melissa Converse, Petitioner.

Jacob McMullin
Notary Public





Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South Tel: (402) 471-2295
PO Box 94987 Fax: (402) 471-0117
Lincoln, NE 68509-4987 Web: www.education.ne.gov

CERTIFIED MAIL

November 27, 2012

Ms. Melissa Converse
2856 Jane Lane
Lincoln NE 68516

RE: NOTICE OF INTENT TO DENY

Dear Ms. Converse:

This is notice of intent to deny your application filed on November 14, 2012, to renew your Nebraska teaching certificate. Your application included information about a 2007 Driving Under the Influence 4th Offense felony conviction. This conviction is prohibited under Title 92, *Nebraska Administrative Code*, Chapter 21, Section 003.11, for issuance of a certificate. Enclosed is a copy of Section 009 of Rule 21. A copy of Rule 21 can be obtained by written request at the address below or at the following Internet address (case sensitive):
http://www.education.ne.gov/Legal/webrulespdf/CLEAN_RULE%2021_%202011.pdf.

Title 92, *Nebraska Administrative Code*, Chapter 21, Section 009.02, provides that you may request within twenty (20) days a review of this decision by writing the Office of the Commissioner of Education. Contact must be made to the Commissioner's Office, not the Teacher Certification Office. To request an administrative review, you must write to:

Commissioner of Education
P.O. Box 94933
Lincoln, NE 68509-4987

Sincerely,

A handwritten signature in cursive script that reads "Kevin Peters".

Kevin Peters, Ed.D.
Teacher Certification Office

Enclosure



Roger D. Breed, Ed.D., Commissioner
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South Tel: (402) 471-2295
PO Box 94987 Fax: (402) 471-0117
Lincoln, NE 68509-4987 Web: www.education.ne.gov

CERTIFIED MAIL

January 3, 2013

Ms. Melissa Converse
2856 Jane Lane
Lincoln, NE 68516

Re: Denial of an Application for a Nebraska Certificate

Dear Ms. Converse:

On November 14, 2012, you filed an application to renew your Nebraska teaching certificate. On November 27 Kevin Peters, Director of the Teacher Certification Office, sent you a letter notifying you of an Intent to Deny your application. On December 18 this office received your letter and enclosures requesting my review of your application.

It is my responsibility to consider your fitness for issuance of a teaching certificate pursuant to Neb. Rev. Stat. Section 79-808 and Title 92, *Nebraska Administrative Code*, Chapter 21 (effective date: December 11, 2011). In reviewing the information, I have decided to deny your application based on the following determinations: 1) You have a 2007 Driving Under the Influence 4th Offense felony conviction for which you were sentenced to a term of imprisonment not less than one year nor more than two years, and your driving privileges were revoked for a period of 15 years; 2) This conviction is prohibited by 92 NAC 21, Section 003.11; 3) Section 005.01J requires applicants be of good moral character; 4) On November 9, 2011, the State Board of Education upheld the Commissioner of Education's decision to deny your 2011 application for renewal; and 5) Only one year has elapsed since the Board entered an order denying you a certificate.

Therefore, I am denying your application for a Nebraska teaching certificate based upon the aforementioned information. Section 009.03 of 92 NAC 21 provides that you may appeal my denial of your application to the State Board of Education within twenty (20) calendar days of receipt of this letter. A copy of Title 92, *Nebraska Administrative Code*, Chapter 61, is included.

Sincerely,

Roger D. Breed, Ed.D.
Commissioner of Education

xc: Kevin Peters, Ed.D.

Enclosure

03.05.13 State Board of Education

8.4.3-7